

Remarks

The non-final Office Action dated August 19, 2009 indicated that claim 8 is objected to and further indicated the following new grounds of rejection: claim 19 stands rejected under § 112; claims 1-4, 7-8, 10-11, 13, and 18-26 stand rejected under 35 U.S.C. § 102(b) over Williamson (U.S. Patent No. 3,008,013); and claims 1, 5-6, 9, 12 and 14-17 stand rejected under 35 U.S.C. § 102(e) over Hamada (U.S. Patent No. 7,020,295). Applicant traverses all of the rejections and, unless stated by the Applicant, does not acquiesce to any objection, rejection or averment made in the Office Action.

Applicant respectfully traverses the §112 rejection of claim 19. The Office Action premises the rejection on a lack of antecedent basis. According to M.P.E.P. § 2173.05(e), the failure to provide explicit antecedent basis for terms does not always render a claim indefinite. If the scope of a claim would be reasonably ascertainable by those skilled in the art, then the claim is not indefinite. At best, the issue warrants an objection. Notwithstanding, claim 19 has been amended to remove the term means. Applicant requests that the rejection be withdrawn.

Claim 8 has been amended to remove the term means as suggested in the Office Action; thus, the objection to claim 8 should therefore be removed.

Applicant respectfully traverses the § 102 rejections because neither of the cited references corresponds to the claimed invention. For example, neither of the references teaches a diaphragm substantially untensioned in the inactive state. Instead, the '013 reference teaches a diaphragm as "secured in tension" (Col 2: 61-62). With respect to the §102 based rejection, the '295 reference teaches that which is expressly discussed in the '013 reference (*see* teaching in connection with Fig. 2), and makes no mention whatsoever of the tension (or lack thereof) of the diaphragm in the inactive state. Accordingly, the §102 rejections of all claims fail, and Applicant requests that they be withdrawn.

In view of the above, Applicant believes that each of the rejections/objections has been overcome and the application is in condition for allowance. Should there be any remaining issues that could be readily addressed over the telephone, the Examiner is asked to contact the agent overseeing the application file, Peter Zawilski, of NXP Corporation at (408) 474-9063.

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